

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI
WESTERN DIVISION

ARMSTER LACKING

PETITIONER

VERSUS

CIVIL ACTION NO. 5:14-cv-75-DCB-MTP

STATE OF MISSISSIPPI

RESPONDENT

MEMORANDUM OPINION AND ORDER

This matter is before the Court, *sua sponte*, for consideration of dismissal. Petitioner filed this *pro se* petition for habeas corpus relief pursuant to 28 U.S.C. § 2254 on August 27, 2014. Upon liberal review of the Petitioner's pleadings and applicable case law, the Court finds as follows.

Petitioner was convicted of kidnaping in the Circuit Court of Pike County, Mississippi, on August 31, 1998. Pet. [1] at 1; *see also In Re: Armster Lacking*, No. 12-60895 (5th Cir. Feb. 14, 2013). Petitioner presents as ground for habeas relief the following:

GROUND ONE: Trial court violated my due process right to a trial [because of the] grand jury indictment. According to U.S. [Const.] [amend]. V, ... the submission of an improper instruction of kidnaping by inveiglement [even though] ... I was indicted for kidnaping by force, caus[ed] me to be confined illegally. *See Pet. [1] at 5.*

In reviewing the petition [1] and memorandum brief [2] filed by the Petitioner, the Court finds that the Petitioner has not established that he has paid the \$500.00 sanction imposed by the Fifth Circuit on February 14, 2013. *See In Re: Armster Lacking*, No. 12-60895 (5th Cir. Feb. 14, 2013). Moreover, Petitioner does not establish that he has received leave of Court to file the instant civil habeas petition. *Id.* To the extent that this petition can be construed as a request for leave to proceed, the Court will deny such a request because the ground for habeas relief was previously raised and resulted in the February 14, 2013, sanctions imposed by the Fifth Circuit

Court of Appeals. *Id.* The petition for habeas relief therefore will be dismissed.

For the reasons stated herein, Petitioner's *pro se* petition for habeas corpus relief will be dismissed for failure to pay the sanctions imposed by the Fifth Circuit and failure to receive leave of Court to pursue this civil action. A Final Judgment in accordance with this Memorandum Opinion and Order will be entered.

This the 28th day of August, 2014.

s/David Bramlette
UNITED STATES DISTRICT JUDGE